

1997 Legislative Summary for IDEM

Table of Contents

NOTE: *Please note that several topics may affect more than one program. Those topics are listed only in the program that is most affected.*

	Page
“A Guide to Using this Legislative Summary”	iv
Water Program:	1
Drinking Water Revolving Loan Program (SEA 340)	1
Wastewater Revolving Loan Program (SEA 340)	2
Public Water Supply Permits / Permit by Rule for Water Main Extensions (HEA 1992)	3
Wellhead Protection Zones (HEA 1992)	3
Water Supply For Contaminated Wells (SEA 31)	3
Spill Reporting Requirements Rule (Water Program) (SEA 7 and HEA 1730)	4
Water Program Annual Operation Fee Payments in Installments (SEA 7)	4
Work Group on Lake Problems (SEA 75)	4
Natural, Scenic, and Recreational River System (SCR 35)	4
Kankakee River Basin Commission (HEA 1041)	4
Maumee River Basin Commission (HEA 1934)	5
Water Resources Study Committee (SEA 5(ss))	5
Certification of Coal Conversion Systems, Hydroelectric Power Devices, and Geothermal Energy Heating or Cooling Devices for Tax Deduction (HEA 1542)	5
Soil and Water Conservation Districts (HEA 1171)	5
Storm Water Run-Off Associated with Construction Activity (HEA 1992)	5
Regional Water, Sewage, and Solid Waste Districts (HEA 1917)	6
Air Program:	7
Open Burning (HEA 1301)	7
Motor Vehicle Emission Inspection Stations in Lake and Porter Counties (SEA 6(ss))	7
Regional Transportation Authorities (SEA 238)	7
Gasoline and Gasohol Vapor Pressure (HEA 1102)	7
Air Permit Exemptions (SEA 206)	7
Urge EPA to Evaluate Proposed Revisions to the National Ambient Air Quality Standards (SCR 30)	8
Lead-Based Paint Activities Licenses (HEA 1181)	8
Solid Waste Program:	9
Confined Feeding Operations (HEA 1915)	9
Foundry Sand And Special Waste (HEA 1541)	10
Alternative Daily Cover at Municipal Solid Waste Landfills (HEA 1339)	11

Solid Waste Program (continued):

Solid Waste Landfill Groundwater Corrective Action Contingency Fund (HEA 1339)	11
Waste Tire Disposal at a Land Excavation Associated with a Mineral Extraction Operation (SEA 169)	12
Transfer of Infectious Waste (SEA 478)	12
Solid Waste Program Annual Operation Fee Payment in Installments (SEA 7)	12
Recovery of Attorney's Fees for Solid Waste Dumping Nuisance Actions (HEA 1728)	12
State Solid Waste Management Fund (HEA 1339)	13
State Solid Waste Management Fund Grants (HEA 1339)	13
Solid Waste Management Districts	13
Solid Waste Management District Claim Forms (HEA 1339)	13
Solid Waste Planning Advisory Council Dissolution (HEA 1339)	13
Solid Waste Management District Powers (HEA 1339)	13
Solid Waste Management District Fiscal Report (HEA 1339)	14
Solid Waste Disposal Fee for La Porte Co. SWMD (HEA 1339)	14

Hazardous Waste Program:

Secondary Material Exemption (SEA 478 and HEA 1339)	15
Delisting of Hazardous Waste (SEA 478 and HEA 1339)	16
Hazardous Waste Program Annual Operation Fee Payment in Installments (SEA 7)	17
Hazardous Waste Program Due/Assessed Correction (SEA 7)	17
Site Approval Authority for Hazardous Waste and Low-Level Radioactive Waste Facilities (HEA 1339)	17

Pollution Prevention Program:

Clean Manufacturing and Pollution Prevention (SEA 319)	18
Definition of "Pollution Prevention" (SEA 319)	18
Definition of "Clean Manufacturing" (SEA 319)	18
Clean Manufacturing Technology Board (SEA 319)	18
Indiana Clean Manufacturing Technology and Safe Materials Institute (SEA 319)	19
State Environmental Protection Hierarchy (SEA 319)	19
OPPTA Duties (SEA 319 and SEA 7)	20

Environmental Response Program:

Voluntary Remediation / Brownfields (SEA 360)	21
Brownfield Revitalization Zone Tax Abatement Program (SEA 360)	21
The Environmental Remediation Revolving Loan Program (SEA 360)	21
Voluntary Remediation Program (SEA 360)	23
Environmental Legal Actions (SEA 360)	24
Underground Storage Tanks (SEA 359)	24
Voluntary Certification Program (SEA 359)	24
Underground Storage Tank Release Detection, Prevention, and Correction Program (SEA 359)	24
Underground Petroleum Storage Tank Excess Liability Trust Fund (SEA 359)	25
Underground Storage Tank Financial Assurance Board (SEA 359)	26
Heating Oil Tanks (SEA 359)	26
Compliance Requirements (SEA 359)	26
Responsible Property Transfer Law (HEA 1730)	27
Local Emergency Planning Committees (HEA 1811)	27
Fee for Inspection of Gasoline and Kerosene (HEA 1784)	27

Rulemaking:

3rd Public Comment Period For Rulemaking (SEA 297)	28
1st Public Comment Period Notice Requirements (SEA 297)	28

Administrative Orders and Procedures:	29
Administrative Orders (HEA 1992)	29
Environmental Adjudication (HEA 1992)	29
Time Limit for Appeals (SEA 7)	29
 General:	30
Annual Operation Fee Payments in Installments (Relocation of Language) (SEA 7)	30
State Grants (HEA 1542)	30
Lake Co. Annexation of Territory (SEA 5(ss))	30
Biennial Budget (SEA 6(ss))	30
Land Surveyors (SEA 182)	30
Indiana Advisory Commission on Intergovernmental Relations (SEA 163)	31
Enhanced Access to Public Records (HEA 1945)	31
Digital Signatures (SEA 5(ss))	31
 Appendices:	
“Brief Summary of 1997 Legislation that Affects IDEM”	
“How to Properly Reference State Legislation”	
“How to Find the Most Current Version of a Law in the Indiana Code”	

A Guide To Using This Legislative Summary

How this summary should be used:

The “1997 Legislative Summary for IDEM” highlights the main points of legislation from the 1997 session of the Indiana General Assembly. The summary focuses only on those topics that directly affect IDEM activities or is information that would be useful to IDEM staff.

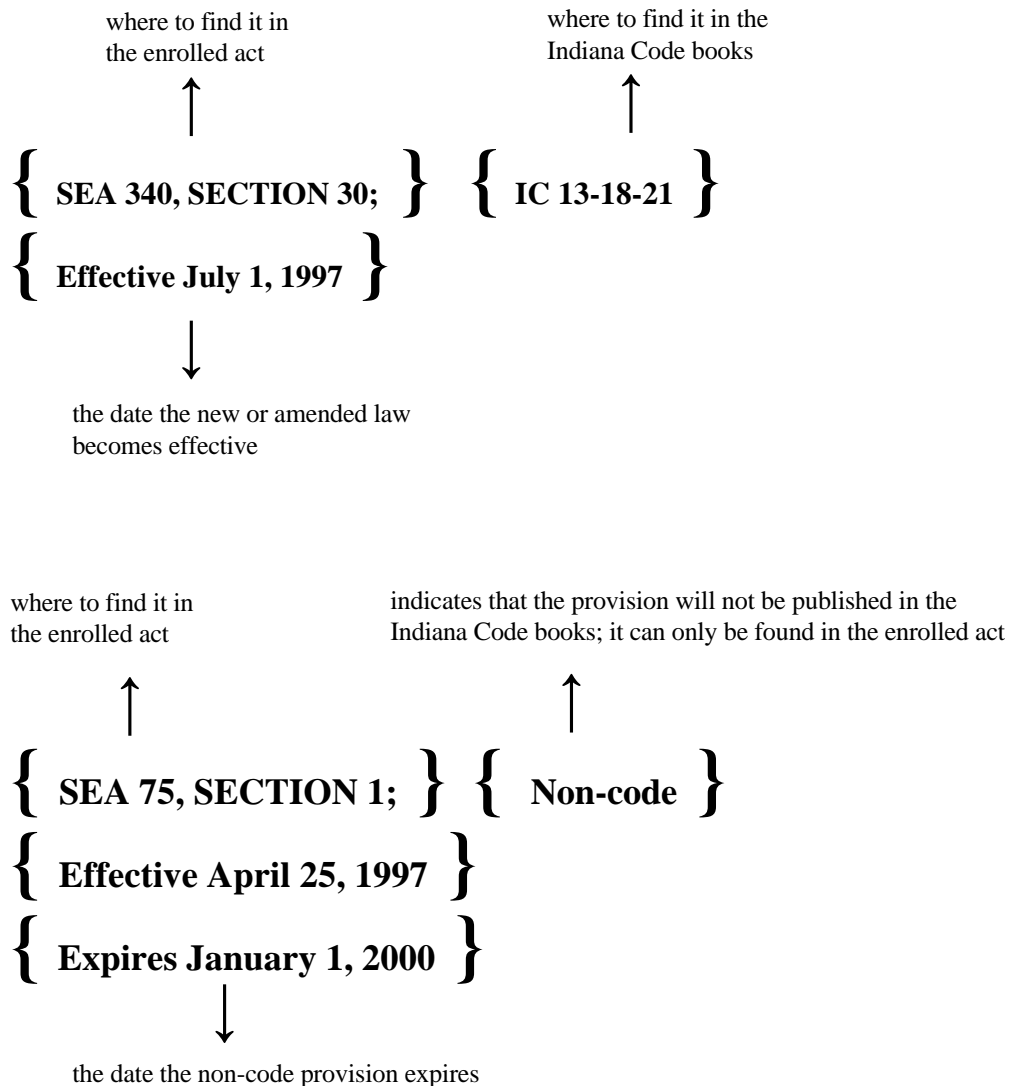
The summary is organized by topic according to programs. Please note that several topics may affect more than one program, but are listed only in the program that is most affected.

This summary is provided as a reference guide. It highlights the main points of each topic and directs you to the location of the exact language in the enrolled act. Please note that the summary for each topic is not exhaustive. It should not take the place of looking at the actual language in the act. It is recommended that you use the summary only as an initial reference, then refer to the actual act for the exact wording and context.

~~~~~

## How to use the reference information provided in this summary:

A reference is provided for each entry in the summary and is typed in *italics*. The reference information will vary in appearance as follows:



# **WATER PROGRAM:**

## **DRINKING WATER REVOLVING LOAN PROGRAM**

*SEA 340, SECTION 30; IC 13-18-21*

*Effective July 1, 1997*

- The Drinking Water Revolving Loan Program and Fund are established. The money in the fund may be used to provide loans or other financial assistance to political subdivisions for the planning, designing, construction, renovation, improvement, expansion, or any combination of these purposes for drinking water systems that will facilitate compliance with national primary drinking water regulations or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act.
- "Political subdivision", for purposes of IC 13-18-21, means:
  - 1) a political subdivision (as defined in IC 36-1-2);
  - 2) a regional water, sewage, or solid waste district organized under IC 13-26 or IC 13-3-2 (before its repeal July 1, 1996);
  - 3) a local public improvement bond bank organized under IC 5-1.4;
  - 4) a qualified entity described in IC 5-1.5-1-8(4) that is a public water utility described in IC 8-1-2-125; or
  - 5) a conservancy district established for the purpose set forth in IC 14-33-1-1(a)(4).
- The cost of administering the fund and program may be paid from the fund or from 4% of the money allotted to the state under 42 U.S.C. 300j-12, except as provided in the federal Safe Drinking Water Act.
- IDEM and the Budget Agency shall use 2% of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to political subdivisions serving not more than 10,000 persons in Indiana if appropriated by the general assembly and an adequate state match is available. IDEM and the Budget Agency may contract out to provide the technical assistance. These funds may not be used for enforcement actions.
- 15% of the amount credited to the fund in a state fiscal year shall be available solely for providing loan assistance to public water systems that regularly serve less than 10,000 persons in Indiana, to the extent that the money can be obligated for eligible projects of public water systems.
- All new community water systems and new nontransient, noncommunity water systems commencing operations after October 1, 1999, must demonstrate technical, managerial, and financial capacity with respect to each federal primary drinking water regulation in effect on the date operations commence. The Budget Agency and IDEM shall develop and implement a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity to avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq.,. IDEM has primary responsibility to carry out this provision.
- IDEM's duties are outlined in IC 13-18-21-5.
- The Budget Agency's duties are outlined in IC 13-18-21-6.
- IDEM and the Budget Agency may provide services to political subdivisions in connection with a loan or other financial assistance and charge a fee for services provided.
- IDEM is required to use a priority ranking system to recommend loans or other financial assistance from the fund.
- A political subdivision receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement.

- The Water Pollution Control Board and the Budget Agency are given the authority to adopt rules, including emergency rules, to implement the provisions on the Drinking Water Revolving Loan Fund, IC 13-18-21.
- The Supplemental Drinking Water Assistance Program and Fund are established. Money in the fund may be used to do the following:
  - 1) Provide grants, loans, or other financial assistance to or for the benefit of political subdivisions or public water systems that serve economically disadvantaged municipalities for the planning, designing, acquisition, construction, renovation, improvement, or expansion of drinking water treatment systems and water supply systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.
  - 2) Pay the cost of administering the supplemental fund and the supplemental program.
  - 3) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.
- The Budget Agency shall develop a supplemental priority ranking system to recommend grants, loans, or other financial assistance from the supplemental fund.

*SEA 340, SECTION 31; Non-code*

*Effective July 1, 1997*

*Expires January 1, 1998*

- By October 1, 1997, the State Budget Agency shall prepare a written report about how the state may provide a program of financial assistance for all public water systems that regularly serve less than 120,000 persons in Indiana, regardless of whether the systems are owned or owned and operated by a political subdivision, a nonprofit utility, or a for profit utility. The report must include a draft of any proposed legislation needed to implement the program of financial assistance.

## **WASTEWATER REVOLVING LOAN PROGRAM**

*SEA 340, SECTION 8; IC 13-18-13-2*

*Effective July 1, 1997*

- The Budget Agency, rather than jointly with IDEM, will invest money in the Wastewater Revolving Loan Fund.

*SEA 340, SECTION 9; IC 13-18-13-5*

*SEA 340, SECTION 10; IC 13-18-13-6*

*Effective July 1, 1997*

- The duty to be the point of contact with political subdivisions in preparing and providing program and supplemental program information has been transferred from IDEM to the Budget Agency.
- Only the Budget Agency, rather than IDEM and the Budget Agency jointly, may sign a financial assistance agreement.

*SEA 340, SECTION 12; IC 13-18-13-9*

*SEA 340, SECTION 13; IC 13-18-13-10*

*Effective July 1, 1997*

- The Budget Agency, rather than IDEM and the Budget Agency jointly, may make loans and provide other financial assistance to political subdivisions.

SEA 340, SECTION 24; IC 13-18-13-24

Effective July 1, 1997

- The Budget Agency, rather than IDEM, must develop a supplemental priority ranking system to recommend grants, loans, or other financial assistance from the supplemental fund. The Budget Agency shall consult with IDEM in establishing the supplemental priority ranking system.

SEA 340, SECTION 25; IC 13-18-13-25

Effective July 1, 1997

- The Budget Agency, rather than IDEM and the Budget Agency jointly, may make grants and loans and provide other financial assistance from the supplemental fund to political subdivisions.

### **PUBLIC WATER SUPPLY PERMITS / PERMIT BY RULE FOR WATER MAIN EXTENSIONS**

HEA 1992, SECTION 10; IC 13-18-16-1

Effective July 1, 1997

- The construction, installation, or modification of sources, facilities, equipment, or devices of a public water supply, including water distribution systems, now requires a permit rather than approval of plans and specifications. Plans and specifications must still be submitted with a permit application.

HEA 1992, SECTION 11; IC 13-18-16-8

Effective July 1, 1997

- The Water Pollution Control Board is required to adopt a permit by rule for water main extensions to satisfy the permit requirement in IC 13-18-16-1(a).

### **WELLHEAD PROTECTION ZONES**

HEA 1992, SECTION 13; IC 13-18-17-6

Effective July 1, 1997

- Rules or zoning restrictions to establish protection zones around community water system wells may not restrict any activity by an owner of land, a mineral owner, or a mineral leaseholder of record, unless the owner or leaseholder is sent written notice of, and has an opportunity to be heard on, the establishment of the zone and the construction of the community water supply system that caused the establishment of the zone.
- A person that requests a permit for construction of a community water system or establishment of a well field protection zone is responsible for any notice requirements that the board establishes.

### **WATER SUPPLY FOR CONTAMINATED WELLS**

SEA 31, SECTION 2; Non-code

Effective July 1, 1997

Expires June 30, 2001

- If a municipal council determines, with confirmation from an appropriate public health agency, that an area within the municipality served by private water wells suffers from a health hazard due to the presence of a contaminant, the municipal council may determine that the public utility providing water service within the municipality, if any, extend its mains and perform connections. A municipal council may not enter a determination that would increase any customer's monthly payment by more than 1% without approval of the IN Utility Regulatory Commission.

## **SPILL REPORTING REQUIREMENTS RULE (WATER PROGRAM)**

*SEA 7, SECTION 88; Non-code*

*Effective July 1, 1996 (retroactive)*

- Three sections regarding the spill reporting requirements rule are repealed (IC 13-18-6-1, IC 13-18-6-2, and IC 13-18-6-3). This corrects a technical error. In 1996, SEA 185 repealed those three provisions, but the recodification act omitted to reflect the repeal.

*HEA 1730, SECTION 2, Non-code*

*Effective April 23, 1997*

- The chapter on the spill reporting requirements rule are repealed (IC 13-18-6-1, IC 13-18-6-2, IC 13-18-6-3; and IC 13-18-6-4) since IDEM and the Water Pollution Control Board have completed this rulemaking action.

## **WATER PROGRAM ANNUAL OPERATION FEE PAYMENTS IN INSTALLMENTS**

*SEA 7, SECTION 41; IC 13-18-20-14*

*SEA 7, SECTION 42; IC 13-18-20-15*

*Effective April 28, 1997*

- The reference of IC 13-22-12-14 is changed to IC 13-16-2 to reflect the relocation of the language on annual operation fee payments in installments from IC 13-22 to IC 13-16. This is a technical correction.

## **WORK GROUP ON LAKE PROBLEMS**

*SEA 75, SECTION 1; Non-code*

*Effective April 25, 1997*

*Expires January 1, 2000*

- A work group is established to develop solutions for the problems affecting public freshwater lakes of Indiana. IDEM is a member of this 26 member work group. The work group will be under the direction of DNR. The work group shall do the following: 1) Conduct public meetings to hear testimony and receive written comments concerning problems affecting the lakes of IN; 2) Develop proposed solutions affecting the lakes of IN; 3) Issue reports to the Natural Resources Study Committee as directed; and 4) Issue an interim report before July 1, 1998 and a final report before December 31, 1999.

## **NATURAL, SCENIC, AND RECREATIONAL RIVER SYSTEM**

*Senate Concurrent Resolution (SCR) 35*

*(Note that a "concurrent resolution" does not have the effect of law; It is used to express the sentiment of the IN General Assembly.)*

*No effective date*

- The IN legislature is urging the Natural Resources Study Committee to address the protection of the natural, scenic, and recreational qualities of those river segments designated as part of the Natural, Scenic, and Recreational River System and those river segments recognized as study rivers which have been determined to qualify as components of the System.

## **KANKAKEE RIVER BASIN COMMISSION**

*HEA 1041; IC 14-30-1*

*Effective July 1, 1997*

- Various amendments are made to the provisions regarding members, vacancies, meetings, rules, and appropriation of funds of the Kankakee River Basin Commission.



### **MAUMEE RIVER BASIN COMMISSION**

*HEA 1934; IC 14-30-2*

*Effective July 1, 1997*

- The membership on the Maumee River Basin Commission for the county surveyor of each participating county is changed from a nonvoting member to a voting member.

### **WATER RESOURCES STUDY COMMITTEE**

*SEA 5(ss), SECTION 34; IC 2-5-25*

*(Note: HEA 1277, SECTION 1; IC 2-5-24 was repealed by SEA 5(ss), SECTION 33; Effective June 5, 1997)*

*Effective June 5, 1997*

- The Water Resources Study Committee is established to study and make recommendations concerning all matters relating to the surface and ground water resources of Indiana, including the usage, quality, and quantity of water resources and issues concerning diffused surface water, the common enemy doctrine of law, and runoff. The 12 members of the committee will consist of 12 members appointed from the general assembly.

### **CERTIFICATION OF COAL CONVERSION SYSTEMS, HYDROELECTRIC POWER DEVICES, AND GEOTHERMAL ENERGY HEATING OR COOLING DEVICES FOR TAX DEDUCTION**

*HEA 1542, SECTION 11; IC 6-1.1-12-35*

*Effective January 1, 1998*

- If IDEM receives an application for certification of a coal conversion system, hydroelectric power device, or geothermal energy heating or cooling device before April 10 of the assessment year, and if IDEM fails to make a determination whether the system or device qualifies for a deduction before May 10 of the assessment year, then the system or device is considered certified.

### **SOIL AND WATER CONSERVATION DISTRICTS**

*HEA 1171, SECTION 43; Non-code*

*Effective July 1, 1997*

- Various provisions on the organization and dissolution of soil and water conservation districts are repealed.

*HEA 1171, SECTION 35; IC 14-32-6.5*

*Effective July 1, 1997*

- A new petition and election process is established for the dissolution of a district and the reestablishment of a district with new boundaries that incorporate territory that was formerly part of another district.

### **STORM WATER RUN-OFF ASSOCIATED WITH CONSTRUCTION ACTIVITY**

*HEA 1992, SECTION 19; Non-code*

*Effective May 13, 1997*

*Expires July 1, 1997*

- Before July 1, 1997, IDEM is required to publish a notice in the Indiana Register of the Water Pollution Control Board's intent to adopt a rule that concerns 327 IAC 15-5 involving storm water run-off associated with construction activity. The rulemaking process must address the following: 1) liability for all parties and the appropriate termination of liability; and 2) transfer of ownership of property that is subject to the rule.

## **REGIONAL WATER, SEWAGE, AND SOLID WASTE DISTRICTS**

*HEA 1917, SECTION 2, IC 13-26-2-2*

*Effective July 1, 1997*

- A petition to establish a regional water, sewage, or solid waste district may be filed by any representative of one or more eligible entities involved after being authorized by the fiscal body of the petitioning eligible entity or entities, rather than by the fiscal body of each eligible entity or entities included in the plan.
- A copy of a petition to establish a regional district must be filed, not later than 10 days after filing with IDEM, with the executive of each governmental entity having territory within the proposed regional district, rather than just to the board of commissioners of each county.

## **AIR PROGRAM:**

### **OPEN BURNING**

*HEA 1301, SECTION 1; Non-code*

*Effective May 1, 1997*

*Expires January 1, 1999*

- The months that local units of government in Lake, Porter, Clark, and Floyd Counties can allow open burning of leaves at residences in unincorporated areas where yard waste pick-up is not available have been changed from October 1 through December 31, to October 1 through November 30, and April 1 through April 30.

### **MOTOR VEHICLE EMISSION INSPECTION STATIONS IN LAKE AND PORTER COUNTIES**

*SEA 6(ss), SECTION 5; Non-code*

*Effective July 1, 1997*

- An appropriation of \$1.7 million is made for two additional motor vehicle emission inspection stations in Lake and Porter Counties. One additional inspection station must be located in the city with the largest population in each county.

### **REGIONAL TRANSPORTATION AUTHORITIES**

*SEA 238; IC 36-9-3*

*Effective July 1, 1997*

- The authority to establish or expand a regional transportation authority is extended from counties only, to municipalities.

### **GASOLINE AND GASOHOL VAPOR PRESSURE**

*HEA 1102, SECTION 1; IC 16-44-2-8*

*Effective July 1, 1997*

- The methods and specifications for testing the vapor pressure of gasoline have been modified.
- The specifications for the vapor pressure test for gasohol have been modified.

### **AIR PERMIT EXEMPTIONS**

*SEA 206, SECTION 1; Non-code*

*Effective May 13, 1997*

*Expires on the effective date of the rules or December 1, 1998, whichever is earlier*

- The expiration of the law that exempts certain modifications to existing air pollution sources from construction or operating permits and registrations is extended from July 1, 1997 to the earlier of the effective date of the rules regarding this matter or December 1, 1998.
- The Air Pollution Control Board is required to adopt rules before December 1, 1998 to carry out the intent of this exemption provision.
- "Trivial activities" is added as a qualification to the exemption for a modification of an existing source such that a modification to an existing source that consists of insignificant *or trivial* activities is exempt from the permit and registration requirements.

## **URGE EPA TO EVALUATE PROPOSED REVISIONS TO THE NATIONAL AMBIENT AIR QUALITY STANDARDS**

*Senate Concurrent Resolution (SCR) 30*

*(Note that a “concurrent resolution” does not have the effect of law; It is used to express the sentiment of the IN General Assembly.)*

*No effective date*

- The IN General Assembly (IGA) opposes the new, more stringent National Ambient Air Quality Standards, currently proposed by the USEPA because it has not been proven that they are based on sound scientific or public health needs.
- The IGA urges the President and Congress of the U.S. and the Administrator of the USEPA to evaluate both the potential incremental health effects and economic consequences of the proposed revisions to the National Ambient Air Quality Standards.

## **LEAD-BASED PAINT (LBP) ACTIVITIES LICENSES**

*HEA 1181, SECTION 11; IC 13-17-14*

*Effective May 13, 1997*

- The LBP activities program is established to ensure that a person conducting LBP activities in target housing and child-occupied facilities does so in a manner that safeguards the environment and protects the health of the building’s occupants, especially children who are not more than six years old.
- A person who engages in LBP activities or enters into a contract to engage in LBP activities must obtain a license from IDEM.
- A LBP activities training course must be approved by IDEM.
- The Air Pollution Control Board is required to adopt rules to implement the provisions on LBP activities.
- The provisions on LBP activities are not to be construed as requiring the abatement of LBP hazards in a child-occupied facility or target housing.
- A LBP activities license is not required for a person making an inspection under the authority of the Occupational Health and Safety Act or for a person who performs LBP activities with a residential dwelling that the person owns, unless the residential dwelling is occupied by a person other than the owner or the owner’s immediate family, while these activities are being performed, or by a child who is not more than six years old, resides in the building, and has been identified as having an elevated blood lead level.

# **SOLID WASTE PROGRAM:**

## **CONFINED FEEDING OPERATIONS**

*HEA 1915, SECTION 1; IC 13-11-2-39*

*Effective July 1, 1997*

- The definition of “confined feeding” is amended.

*HEA 1915, SECTION 4; IC 13-18-10-2*

*Effective July 1, 1997*

- In addition to a completed application form, an application for the construction of a confined feeding operation must include the following information:
  - 1) Plans and specifications for waste the design and operation of manure treatment and control facilities.
  - 2) A manure management plan that outlines procedures for soil testing and manure testing.
  - 3) Maps of manure application areas.
  - 4) Supplemental information, such as: general features of topography; soil types; drainage course; identification of nearest streams, ditches, and lakes; location of field tiles; location of land application areas; location of manure treatment facilities; and farmstead plan, including the location of water wells on the site.
  - 5) A fee of \$100.
- An applicant who applies for approval to construct a confined feeding operation on land that is undeveloped or for which a valid existing approval has not been issued, shall make a reasonable effort to provide notice, not more than 10 working days after submitting an application, to each person who owns land that adjoins the land on which the confined feeding operation is to be located (or all occupants of the land if the person who owns the land does not occupy the land), and to the county executive of the county in which the confined feeding operation is to be located.

*HEA 1915, SECTION 5; IC 13-18-10-2.1*

*Effective July 1, 1997*

- IDEM shall make a determination on an application not later than 90 days after the date IDEM receives the completed application. The commissioner may suspend the processing of an application if within 30 days after receipt of the application, IDEM has mailed a notice of deficiency to the applicant. If IDEM fails to make a determination not later than 90 days after receipt, the applicant may request and receive a refund of the \$100 application fee and IDEM shall continue to review and make a determination on the application as soon as practicable.
- IDEM is given the authority to establish requirements in an approval regarding that part of the confined feeding operation that concerns manure handling and application to assure compliance with law, rules, policies, and statements relative to confined feeding operations.
- IDEM is given the authority to amend or revoke an approval for failure to comply with applicable laws and rules, and as needed to prevent discharges of manure into the environment that pollute, or threaten to pollute, waters of the state.

*HEA 1915, SECTION 6; IC 13-18-10-2.2*

*Effective July 1, 1997*

- Not more than 30 days after the date the applicant completes the construction, the applicant shall send to IDEM an affidavit that affirms that the confined feeding operation was constructed and will

be operated in accordance with the requirements of the approval.

- Construction of an approved confined feeding operation must begin not later than 2 years; and be completed not later than 4 years after the date of the approval.

*HEA 1915, SECTION 7; IC 13-18-10-2.3*

*Effective July 1, 1997*

- A confined feeding operation must submit a manure management plan that outlines procedures for soil testing, manure testing, and maps of manure application areas to IDEM at least 1 time every 5 years to maintain valid approval.

*HEA 1915, SECTION 8; IC 13-18-10-2.6*

*Effective July 1, 1997*

- IDEM is required to establish a compliance and technical assistance program for owners and operators of confined feeding operations. The program may be administered by IDEM, a state college or university or a contractor.

*HEA 1915, SECTION 9; IC 13-18-10-3*

*Effective July 1, 1997*

- The provisions on confined feeding operation, IC 13-18-10, including requirements established in an approval, may be enforced under IC 13-30-3 or IC 13-14-2-6.

*HEA 1915, SECTION 10; IC 13-18-10-4*

*Effective July 1, 1997*

- IDEM is given the authority to adopt rules, policies, or statements that are necessary for the proper administration of IC 13-18-10. Standards adopted in a rule, policy, or statement must consider confined feeding standards that are consistent with standards found in specified publications.

*HEA 1915, SECTION 60; Non-code*

*Effective July 1, 1997*

*Expires July 2, 2000*

- A confined feeding operation that was approved before July 1, 1997 shall submit a manure management plan to IDEM before July 1, 2000.

*HEA 1915, SECTION 61; Non-code*

*Effective July 1, 1997*

*Expires January 2, 1998*

- IDEM is required to update the guidance document concerning design and operation standards for confined feeding operations before January 1, 1998.

## **FOUNDRY SAND AND SPECIAL WASTE**

*HEA 1541, SECTION 1; IC 13-11-2-215.1*

*Effective July 1, 1997*

- Slag from steel and iron producing industries, and refractory brick, fire clay refractory earth, fire brick, and ceramic block have been deleted from the list of “generic special wastes”.
- Refractory brick, fire clay refractory earth, fire brick, and ceramic block that meet Type III criteria, and slag from steel and iron producing industries are excluded from the definition of “special waste”.

HEA 1541, SECTION 2; IC 13-19-3-7

Effective July 1, 1997

- IDEM and the environmental boards shall allow a person to use foundry sand that meets Type III criteria, in accordance with guidance, without requiring the person to obtain any permits from IDEM for the following activities: 1) as daily cover for litter and vermin control at a landfill; 2) as protective cover for a landfill leachate system; 3) for use as capped embankments for ground and site barriers under 10,000 cubic yards or embankments for airports, bridges, or overpasses; 4) as a structural fill base capped by clay, asphalt, or concrete for specified uses; and 5) as a raw material constituent incorporated into another specified product.

HEA 1541, SECTION 3; Non-code

Effective July 1, 1997

Expires January 2, 1998

- IDEM shall develop a task force to develop guidance for IDEM to implement, before January 1, 1998, IC 13-19-3-7, which allows a person to use foundry sand for specified activities that meets Type III criteria, in accordance with guidance, without requiring the person to obtain any permits from IDEM.

HEA 1541, SECTION 4; Non-code

Effective July 1, 1997

Expires January 1, 1998

- The Environmental Quality Service Council shall develop a task force to study the technical feasibility of the use of shredder fluff as daily cover for litter and vermin control at landfills, including the effects of the use of shredder fluff on human health and the environment.

### **ALTERNATIVE DAILY COVER AT MUNICIPAL SOLID WASTE LANDFILLS**

HEA 1339, SECTION 7; IC 13-16-1-6

HEA 1339, SECTION 8; IC 13-20-22-1

Effective May 13, 1997

- A board or IDEM may not require payment of a fee for material used as alternate daily cover at a municipal solid waste landfill pursuant to a permit issued by IDEM under 329 IAC 10-20-13, including permit application fees, disposal fees, and the state solid waste management disposal fee.

HEA 1339, SECTION 15; IC 13-21-13-1

Effective July 1, 1997

- A solid waste management district board may not impose a final disposal fee for material used as alternate daily cover at a municipal solid waste landfill located within the solid waste management district.

### **SOLID WASTE LANDFILL GROUNDWATER CORRECTIVE ACTION CONTINGENCY FUND**

HEA 1339, SECTION 24; Non-code

Effective July 13, 1996 (retroactive)

Expires April 1, 1998

- 329 IAC 10-21-14 concerning the solid waste landfill ground water corrective action contingency fund is void.
- IDEM is required to issue a generic permit modification, no later than September 1, 1997, that removes the requirements of 329 IAC 10-21-14 from existing permits for municipal solid waste landfills.
- Each municipal solid waste landfill required to undertake corrective action shall establish financial

assurance of corrective action as required by 40 CFR 258.73.

- The Solid Waste Management Board is required to adopt rules to revise 329 IAC 10-39-10 concerning financial assurance for corrective action. The revisions must make the rule consistent with 40 CFR 258.73, require the establishment of financial assurance of corrective action not earlier than its establishment as required under 40 CFR 258.73 and 40 CFR 258.74, and allow the use of all financial assurance mechanisms allowed under 40 CFR 258.74 and 329 IAC 10-39-2.

### **WASTE TIRE DISPOSAL AT A LAND EXCAVATION ASSOCIATED WITH A MINERAL EXTRACTION OPERATION**

*SEA 169, SECTION 2; IC 13-20-14-10*

*Effective July 1, 1997*

- A person may dispose of a whole waste tire at a land excavation associated with a mineral extraction operation if:
  - 1) the person owns the whole waste tire;
  - 2) the person owns or leases the disposal site;
  - 3) the waste tire has a bead width of at least 14 inches and rim or wheel diameter of at least 24 inches;
  - 4) the tire was used on an off-road construction or mining vehicle or equipment; and
  - 5) the tire is buried at least under 25 feet of compacted cover.

### **TRANSFER OF INFECTIOUS WASTE**

*SEA 478, SECTION 2; IC 13-11-2-235*

*Effective July 1, 1997*

- The definition of “transfer station” is amended to exclude a facility where infectious waste is transferred directly between two vehicles, infectious waste is packaged in compliance with 410 IAC 1-3-24, and packages of infectious waste are not opened at any time during the transfer. This would exclude transfer stations that meet this criteria from obtaining a permit as a transfer station for the transfer of solid waste.

*SEA 478, SECTION 9; IC 16-41-16-8*

*Effective July 1, 1997*

- The State Department of Health is required to adopt rules to allow a person or facility that transports infectious waste offsite to label each container of infectious waste in a manner that does not specifically identify the generating facility and ensures that the identity of the generating facility or treatment facility may be readily obtained based on the label information.

### **SOLID WASTE PROGRAM ANNUAL OPERATION FEE PAYMENT IN INSTALLMENTS**

*SEA 7, SECTION 44; IC 13-20-21-8*

*SEA 7, SECTION 45; IC 13-20-21-10*

*Effective April 28, 1997*

- The reference of IC 13-22-12-14 is changed to IC 13-16-2 to reflect the relocation of the language on annual operation fee payments in installments from IC 13-22 to IC 13-16. This is a technical correction.

### **RECOVERY OF ATTORNEY’S FEES FOR SOLID WASTE DUMPING NUISANCE ACTIONS**

*HEA 1728, SECTION 1; IC 34-1-52-2*

*Effective July 1, 1997*

- A county, city, or town is entitled to recover reasonable attorney’s fee incurred in bringing a successful action to abate or enjoin a nuisance caused by unlawful dumping of solid waste.



## **STATE SOLID WASTE MANAGEMENT FUND**

*HEA 1339, SECTION 9; IC 13-20-22-2*

*Effective July 1, 1997*

- The use of funds from the State Solid Waste Management Fund is modified to provide money for programs that provide grants and loans for education and that promote recycling and the reuse of recycled materials, waste reduction, and management of yard waste.

*HEA 1339, SECTION 11; IC 13-20-22-12*

*Effective July 1, 1997*

- The revenue from the \$.50/ton final disposal fee imposed on solid waste generated in IN and disposed of at a final disposal facility in IN is to be deposited so that not less than 50% is deposited in the IN Recycling Promotion and Assistance Fund and not more than 50% is deposited in the State Solid Waste Management Fund.

## **STATE SOLID WASTE MANAGEMENT FUND GRANTS**

*HEA 1339, SECTION 10; IC 13-20-22-2.1*

*Effective July 1, 1997*

- IDEM shall adopt a policy concerning the award of grants from the State Solid Waste Management Fund. The policy must include the following considerations: 1) no private sector services will be displaced if an equipment grant is awarded; and 2) the economic need of the district must be a consideration in awarding a grant.

## **SOLID WASTE MANAGEMENT DISTRICTS**

### **Solid Waste Management District Claim Forms**

*HEA 1339, SECTION 1; IC 5-11-10-1*

*Effective July 1, 1997*

*HEA 1339, SECTION 26; Non-code*

*Effective July 1, 1997*

*Expires June 30, 1998*

*HEA 1339, SECTION 2; IC 5-11-10-1.6*

*Effective July 1, 1998*

- Solid waste management districts are added to the list of entities that are exempt from certain procedures for paying claims.

### **Solid Waste Planning Advisory Council Dissolution**

*HEA 1339, SECTION 12; IC 13-21-2-9*

*Effective July 1, 1997*

- The Solid Waste Planning Advisory Council expires June 30, 1999.

### **Solid Waste Management District Powers**

*HEA 1339, SECTION 13; IC 13-21-3-12*

*Effective July 1, 1997*

- Three of the solid waste management district powers are modified so that they are under the condition that the primary purpose of undertaking those activities is to carry out the provisions of IC 13-21. The three powers include the power to 1) receive and disburse money; 2) otherwise do all things necessary for the reduction, management, and disposal of solid waste, and recovery of waste products from the

solid waste stream; and 3) make grants or loans of money, property, or services.

#### **Solid Waste Management District Fiscal Report**

*HEA 1339, SECTION 14; IC 13-21-3-13.5*

*Effective May 13, 1997*

- At the end of each year, each solid waste management district shall prepare a fiscal report. Each district shall provide the report to IDEM, the State Board of Tax Commissioners, and the Environmental Quality Service Council by February 1 of the year following the year for which the report is made.

#### **Solid Waste Disposal Fee for La Porte Co. SWMD**

*HEA 1339, SECTION 15; IC 13-21-13-1*

*Effective July 1, 1997*

- The La Porte County Solid Waste Management District Board is limited to a final disposal fee of \$2.50 per ton that can be imposed on the final disposal of solid waste in a final disposal facility located within the district. All other solid waste management district boards may still impose a fee of \$2.50 per ton or the amount of the fee in effect on January 1, 1993, whichever is greater.

# HAZARDOUS WASTE PROGRAM:

## **SECONDARY MATERIAL EXEMPTION**

*SEA 478, SECTION 1; IC 13-11-2-197.5*

*(Note: this language was added by HEA 1339, SECTION 4 and then amended by SEA 478, SECTION 1)*

*Effective July 1, 1997*

- The term “secondary material” is defined as a solid, liquid, or contained gaseous form of a byproduct, spend material, sludge, discarded commercial chemical product, or scrap metal that may be incorporated into a manufacturing or an industrial process, except reclamation, to make a product.

*SEA 478, SECTION 3; IC 13-11-2-244.5*

*(Note: this language was added by HEA 1339, SECTION 5 and then amended by SEA 478, SECTION 3)*

*Effective July 1, 1997*

- The term “utilize” is defined for purposes of the secondary material reuse exemption.

*HEA 1339, SECTION 21; IC 13-22-11.5*

*SEA 478, SECTION 8; IC 13-22-11.5-2*

*(Note: this language was added by HEA 1339, SECTION 21 and then amended by SEA 478, SECTION 8)*

*Effective July 1, 1997*

- A residue of the utilization of a secondary material that does not itself qualify as an exempt secondary material is subject to a new determination as to its status as a hazardous waste, and, if listed under IC 13-22-2-3(b), does not retain the listing of the secondary material from which it may have been derived.
- A person may request the commissioner to acknowledge in writing the recognition of a secondary material exemption. The commissioner shall respond to the request not later than 90 days after the request is received.
- A secondary material that is not a waste as defined under 40 CFR 261.2(e) or is legitimately utilized in an industrial or manufacturing process, except reclamation, with no significant increase in the threat it poses to health or the environment, is not a solid waste. The exemption from regulation provided is in addition to any other exemption from regulation as a solid waste provided in rules adopted by the commissioner.
- IC 13-22-11.5 may not be construed:
  - 1) as allowing a person to exercise less than reasonable precautions in the handling of hazardous secondary materials; or
  - 2) to be less stringent than federal law.

*SEA 478, SECTION 6 and HEA 1339, SECTION 18; IC 13-22-3-4*

*Effective July 1, 1997*

- A permit is not required for the utilization of secondary material.

*SEA 478, SECTION 4 and HEA 1339, SECTION 16; IC 13-22-2-2*

*Effective July 1, 1997*

- The Solid Waste Management Board is required to adopt rules to implement IC 13-22-11.5 on secondary material exemption.

*SEA 478, SECTION 11 and HEA 1339, SECTION 23; Non-code*  
*Effective July 1, 1997*  
*Expires January 2, 1999*

- The Solid Waste Management Board shall adopt rules necessary to implement IC 13-22-11.5. The rules must include for the handling of secondary material and rules defining the legitimate use of a secondary material in an industrial or a manufacturing process. The rules must clarify the distinction between reclamation processes, and industrial or manufacturing processes.

*SEA 478, SECTION 7 and HEA 1339, SECTION 20; IC 13-22-11-1*  
*Effective July 1, 1997*

- The Office of Pollution Prevention and Technical Assistance must include “secondary material utilization” in information gathered, and information and advice disseminated to businesses.

*SEA 478, SECTION 10 and HEA 1339, SECTION 22; IC 16-42-18-1*  
*Effective July 1, 1997*

- Hazardous waste that meets the secondary material reuse exemption criteria is also excluded from the definition of “solid waste” as applied to the transporting of food in trucks that transport solid waste.

### **DELISTING OF HAZARDOUS WASTE**

*SEA 478, SECTION 5 and HEA 1339, SECTION 17; IC 13-22-2-3*  
*Effective July 1, 1997*

- The commissioner of IDEM may exclude a waste produced at a particular generating facility from the listing of wastes determined to be hazardous if the person seeking exclusion of the waste demonstrates to the satisfaction of the commissioner that the waste does not meet any of the criteria under which the waste was listed as a hazardous waste and either the person seeking the exclusion has already obtained exclusion of the waste from the listing maintained under 40 CFR 261 by the USEPA or if IDEM has received authority from the USEPA to delist waste, the person petitions the commissioner to consider the removal of a waste from the listing and the commissioner follows the authorized procedure for delisting.
- IDEM must establish a procedure for a person to petition the commissioner to consider the removal of a specific waste from the lists of wastes determined to be hazardous.
- The Solid Waste Management Board shall consider actions taking by adjoining states and the federal government for purposes of uniform criteria relating to the listing and delisting of hazardous waste.

*SEA 478, SECTION 11 and HEA 1339, SECTION 23; Non-code*  
*Effective July 1, 1997*  
*Expires January 2, 1999*

- IDEM shall apply to the USEPA not later than January 1, 1998 for authority to receive petitions and delist waste under 40 CFR 260.20 and 260.22.

*SEA 478, SECTION 12 and HEA 1339, SECTION 25; Non-code*  
*Effective May 13, 1997*

*Expires the earlier of the date rules adopted by the Solid Waste Management Board become effective or December 31, 1998*

- IDEM shall follow the delisting criteria provided in 40 CFR 260.20 and 40 CFR 260.22.
- The Solid Waste Management Board shall adopt rules before January 1, 1999 that provide procedures and criteria for delisting wastes as hazardous wastes.

## **HAZARDOUS WASTE PROGRAM ANNUAL OPERATION FEE PAYMENT IN INSTALLMENTS**

*SEA 7, SECTION 46; IC 13-22-12-7*

*SEA 7, SECTION 47; IC 13-22-12-8*

*Effective April 28, 1997*

- The reference of “section 14 of this chapter” is changed to IC 13-16-2 to reflect the relocation of the language on annual operation fee payments in installments from IC 13-22 to IC 13-16. This is a technical correction.

## **HAZARDOUS WASTE PROGRAM DUE/ASSESSED CORRECTION**

*SEA 7, SECTION 47; IC 13-22-12-8*

*Effective April 28, 1997*

- The term “assessed” is changed to “due” in four places regarding penalties for late payment of an annual operation fee or an installment for the Hazardous Waste program. This technical correction was made so that the language would be consistent with the Water and Solid Waste programs.

## **SITE APPROVAL AUTHORITY FOR HAZARDOUS WASTE AND LOW-LEVEL RADIOACTIVE WASTE (LLRW) FACILITIES**

*HEA 1339, SECTION 19; IC 13-22-10-5*

*Effective July 1, 1997*

- Prior to construction of a hazardous waste or LLRW facility, a person must obtain all approvals as required under applicable zoning ordinances or laws, rather than the local plan commission and county executive. If the proposed facility is located in an area that is not subject to a zoning ordinance or law, the person must obtain approval to construct from the county executive of the county in which the facility would be located.

# **POLLUTION PREVENTION PROGRAM:**

## **CLEAN MANUFACTURING AND POLLUTION PREVENTION**

### **Definition of “Pollution Prevention”**

*SEA 319, SECTION 9; IC 13-11-2-166*

*Effective May 13, 1997*

- The previous definition of “pollution prevention” has been replaced with a new definition that is defined by the USEPA under the federal Pollution Prevention Act (42 13101 et seq.) and the USEPA pollution prevention policy statement (June 15, 1993) as amended.

### **Definition of “Clean Manufacturing”**

*SEA 319, SECTION 2; IC 13-11-2-27.6*

*Effective May 13, 1997*

- “Clean manufacturing”, for purposes of IC 13-12, IC 13-27, and IC 13-27.5, means the employment by a manufacturer of a practice that reduces the manufacturing use of toxic materials or reduces the environmental and health hazards associated with an environmental waste without diluting or concentrating the waste before the recycling, release, handling, storage, transport, treatment, or disposal of the waste. The term includes changes in production technology, materials, processes, operations, or procedures. The term does not include a practice that is applied to an environmental waste after the waste is generated or comes into existence or exits a production unit or operation, waste burning in industrial furnaces, boilers, smelters, or cement kilns for purposes of energy recovery, waste shifting, offsite recycling, onsite recycling, including inprocess recycling, inline recycling, out-of-process recycling, closed loop recycling, and any other onsite recycling method, or any other method of end-of-pipe management of environmental wastes, including waste exchange and the incorporation or embedding of regulated environmental wastes into products or byproducts.

### **Clean Manufacturing Technology Board**

*SEA 319, SECTION 1; IC 13-11-2-17*

*Effective May 13, 1997*

- The Pollution Prevention Board is renamed as the Clean Manufacturing Technology Board.

*SEA 319, SECTION 22; IC 13-27.5-1*

*Effective May 13, 1997*

- The Clean Manufacturing Technology Board is established to replace the Pollution Prevention Board. Membership and duties of the board are outlined.

*SEA 319, SECTION 23; Non-code*

*Effective May 13, 1997*

- The provisions on the Pollution Prevention Board, IC 13-27-3, are repealed.

*SEA 319, SECTION 24; Non-code*

*Effective May 13, 1997*

*Expires July 1, 2000*

- All policies, minutes, and official documents of the Pollution Prevention Board must be transferred to the Clean Manufacturing Technology Board.

### **Indiana Clean Manufacturing Technology and Safe Materials Institute**

*SEA 319, SECTION 5; IC 13-11-2-110*

*Effective May 13, 1997*

- The Pollution Prevention and Safe Materials Institute is renamed as the Indiana Clean Manufacturing Technology and Safe Materials Institute.

*SEA 319, SECTION 23; Non-code*

*Effective May 13, 1997*

- The provisions on the Pollution Prevention and Safe Materials Institute, IC 13-27-4, are repealed.

*SEA 319, SECTION 22; IC 13-27.5-2*

*Effective May 13, 1997*

- The Clean Manufacturing Technology Board is directed to select a university or nonprofit corporation to establish the Indiana Clean Manufacturing Technology and Safe Materials Institute. The Indiana Clean Manufacturing Technology and Safe Materials Institute replaces the Pollution Prevention and Safe Materials Institute.

*SEA 319, SECTION 25; Non-code*

*Effective May 13, 1997*

*Expires July 1, 2000*

- The university selected by the Pollution Prevention Board to establish the Pollution Prevention and Safe Materials Institute shall establish and operate the Indiana Clean Manufacturing Technology and Safe Materials Institute.

*SEA 319, SECTION 24; Non-code*

*Effective May 13, 1997*

*Expires July 1, 2000*

- All funds appropriated to the Pollution Prevention and Safe Materials Institute shall be transferred to the Indiana Clean Manufacturing and Safe Materials Institute.

*SEA 319, SECTION 23; Non-code*

*Effective May 13, 1997*

- The provisions on the multimedia pollution prevention plans developed under the Pollution Prevention and Safe Materials Institute, IC 13-27-5, are repealed.

*SEA 319, SECTION 22; IC 13-27.5-3*

*Effective May 13, 1997*

- The Indiana Clean Manufacturing and Safe Materials Institute is directed to encourage manufacturers to develop multimedia clean manufacturing plans.

### **State Environmental Protection Hierarchy**

*SEA 319, SECTION 13; IC 13-12-5-1*

*Effective May 13, 1997*

- “Pollution prevention” has been changed to “clean manufacturing” as one of the two approaches to environmental protection recognized by the IN General Assembly.

SEA 319, SECTION 14; IC 13-12-5-2

Effective May 13, 1997

- The term “pollution prevention” is replaced with “clean manufacturing”.
- “Closed loop, inprocess recycling” is not included as a clean manufacturing practice.

SEA 319, SECTION 16; IC 13-12-5-4

Effective May 13, 1997

- “Pollution prevention” has been changed to “clean manufacturing” as the most reliable and effective form of environmental protection and the preferred approach to environmental protection recognized by the IN General Assembly.

### **OPPTA Duties**

SEA 319, SECTION 17; IC 13-27-2-8

Effective May 13, 1997

- IDEM and the Clean Manufacturing Technology Board shall coordinate their efforts in the implementation of the grants program and the pilot projects. Grants and pilot projects were previously implemented solely by IDEM.

SEA 319, SECTION 19; IC 13-27-2-10

Effective May 13, 1997

- IDEM may award grants to support and sustain clean manufacturing, rather than pollution prevention.

SEA 319, SECTION 20; IC 13-27-2-11

Effective May 13, 1997

- OPPTA shall sponsor pilot projects to develop and demonstrate innovative techniques for clean manufacturing, rather than pollution prevention.
- OPPTA is required to consult with the Indiana Clean Manufacturing and Safe Materials Institute in implementing pilot project activities.

SEA 319, SECTION 23; Non-code

Effective May 13, 1997

- The authority for the commissioner to adopt rules to implement IC 13-27 under IC 13-27-2-14 has been repealed.

SEA 319, SECTION 26; Non-code

Effective May 13, 1997

Expires July 1, 1998

- The IN Economic Development Council is given the authority to conduct a study and make recommendations to the General Assembly, the Governor, and the Dept. of Commerce on clean manufacturing and economic development. The study shall be conducted and recommendations made before July 1, 1998.

SEA 7, SECTION 50; IC 13-27-2-5

Effective April 28, 1997

- IC 13-27-2-5(4) is amended so that the responsibility for OPPTA is to develop policies and programs to reduce by means of industrial pollution prevention applies to the generation of municipal wastes, the generation of hazardous wastes and pollutants, and the use of toxic materials in consumer products, rather than just applying to the use of toxic materials in consumer products.



# **ENVIRONMENTAL RESPONSE PROGRAM:**

## **VOLUNTARY REMEDIATION / BROWNFIELDS**

### **Brownfield Revitalization Zone Tax Abatement Program**

*SEA 360, SECTION 1; IC 6-1.1-42*

*Effective July 1, 1997*

- This program will allow any person to apply to a local fiscal body or a metropolitan development commission ("designating body") to have an area deemed a "Brownfield Revitalization Zone". Any person with property located in that zone may apply to the designating body to receive a property tax assessed valuation deduction equal to the increase of the assessed value of the property arising from the remediation of the property and the subsequent redevelopment multiplied by a certain percentage that is determined based on the number of years (3, 6, or 10 years) the applicant would like to take the deduction. The property must be eligible for the voluntary remediation program and have received its certificate of completion to take the deduction.
- In order to apply for a Brownfield Revitalization Zone, become eligible for the deduction and then ultimately take the deduction, the applicant must demonstrate several things including the applicant has never had an ownership interest in an entity that contributed and the applicant has not contributed to contamination that is the subject of the voluntary remediation, as determined under the written standards adopted by IDEM. IDEM must develop these standards and seemingly make a determination regarding whether the person is or is not a "prior owner or prior contributor" to the contamination. The standards will need to establish the entities proportionate share of responsibility since the designating body may make a determination that a contributor or prior owner can take the deduction but that the deduction would be decreased by the proportionate responsibility of the owner or contributor of the contamination.
- The Zone or the deduction can be revoked by the designating body if the applicant is not making reasonable progress towards completing the remediation. However, it can only make that resolution after two years have passed since the area was deemed a Brownfield Revitalization Zone.

### **The Environmental Remediation Revolving Loan Program**

*SEA 360, SECTION 3; IC 13-11-2-19.3*

*Effective July 1, 1997*

- Brownfield is defined as " an industrial or commercial parcel of real estate: (1) that is abandoned or inactive or may not be operated at its appropriate use; and (2) on which expansion or redevelopment is complicated; because of the actual or perceived presence of a hazardous substance or petroleum released into the surface or subsurface soil or groundwater that poses a risk to human health and the environment."

*SEA 360, SECTION 13; IC 13-19-5*

*Effective July 1, 1997*

- The Environmental Remediation Revolving Loan Program and Fund are established to assist in the remediation of brownfields to encourage the rehabilitation, redevelopment, and reuse of real property by political subdivisions by providing loans or other financial assistance to political subdivisions to conduct any of the following activities: 1) identify sites to redevelop after remediation; 2) perform environmental assessments on the identified sites; 3) conduct remediation activities; 4) sell real property in connection with remediation activities; and 5) conduct other activities as necessary or convenient to complete the remediation of a brownfield.

- The Indiana Development Finance Authority (IDFA) will administer the fund.
- The Budget Agency will analyze a political subdivision's ability to repay a loan and conduct the remediation, and determine fiscal impacts to the state.
- IDEM will provide the role of technical consultant by doing the following:
  - 1) Evaluate the technical aspects of the political subdivision's environmental assessment of potential brownfield properties, proposed remediation, and remediation activities conducted on the brownfields properties.
  - 2) Inspect or cause to be inspected remediation activities conducted under this chapter.
  - 3) Act as a liaison with the USEPA regarding this program.
  - 4) Be a point of contact for political subdivisions concerning technical questions about environmental aspects of the program.
  - 5) Enter into memoranda of understanding with the budget agency and the authority concerning the administration and management of the fund and the program.
- The IDFA must create a ranking scheme by which they determine a priority to enter into these financial assistance agreements with political subdivisions. This scheme must take into consideration the technical evaluation done by IDEM.

*SEA 360, SECTION 29; Non-code*

*Effective July 1, 1997*

*Expires July 2, 1999*

- \$10 million will be transferred from the Hazardous Substances Response Trust Fund to the Environmental Remediation Revolving Loan Fund over a three-year period as follows: \$5 million on July 1, 1997; \$2.5 million on July 1, 1998; and \$2.5 million on July 1, 1999.

*SEA 360, SECTION 26; Non-code*

*Effective May 13, 1997*

*Expires July 1, 1998*

- IDEM, the IDFA, and the Budget Agency shall adopt rules before July 1, 1998, to implement the Environmental Remediation Revolving Loan Program.

*SEA 360, SECTION 15; IC 13-25-4-8*

*Effective May 13, 1997*

- A political subdivision will not be liable under the state cleanup law if it acquires a contaminated property to conduct remediation on the brownfield.

*SEA 360, SECTION 24; Non-code*

*Effective July 1, 1997*

*Expires July 1, 2000*

- The Environmental Quality Service Council shall oversee the implementation of the brownfields program.

*SEA 360, SECTION 28; Non-code*

*Effective May 13, 1997*

*Expires July 1, 1999*

- IDEM is given the authority to develop a Brownfield Redevelopment Work Group that would collect data and advise the Environmental Quality Service Council.

## **Voluntary Remediation Program**

*SEA 360, SECTION 17; IC 13-25-5-2*

*Effective July 1, 1997*

- Clarification that the voluntary remediation application is only confidential until the Voluntary Remediation Agreement (VRA) is signed.
- A political subdivision is exempt from the \$1,000 application fee.

*SEA 360, SECTION 18; IC 13-25-5-7*

*Effective July 1, 1997*

- If IDEM determines an application is eligible to participate in the Voluntary Remediation Program, the applicant may submit to the department:
  - 1) a proposed voluntary remediation investigation plan;
  - 2) a proposed voluntary remediation work plan; or
  - 3) a voluntary remediation work plan for a completed remediation project.

*SEA 360, SECTION 19; IC 13-25-5-8*

*Effective July 1, 1997*

- In addition to other requirements, a VRA must include the intention to complete a remediation under one of the three cleanup standards and the applicant must submit a work plan within 180 days after the date the VRA is signed.

*SEA 360, SECTION 20; IC 13-25-5-8.5*

*Effective July 1, 1997*

- A voluntary remediation work plan must specify one of the three following remediation objectives for the site: 1) background levels; 2) risk based on expected future use of the site; and 3) risk based on measurable risks to human health, natural resources, or the environment.

*SEA 360, SECTION 21; IC 13-25-5-18*

*Effective July 1, 1997*

- A person may not bring an action, against the applicant or any other person proceeding on behalf of the applicant for any cause of action relating to the release or threatened release of a contaminant that is the subject of the agreement once the VRA has been signed.

*SEA 360, SECTION 27; Non-code*

*Effective July 1, 1997*

*Expires July 2, 1998*

- Before July 1, 1998, IDEM shall establish a procedure for ensuring that remediation and closure goals, objectives, or standards for activities performed under IC 13-22 and IC 13-23 are not inconsistent with IC 13-25-5.

*SEA 360, SECTION 25; Non-code*

*Effective July 1, 1997*

*Expires July 1, 1998*

- Before July 1, 1998, the Solid Waste Management Board is required to adopt rules concerning the Indiana Scoring Model and the assessment of hazardous substance response sites and determine a minimum score to allow sites that have been the subject of successful remediation or score below the minimum score to be removed from the priority ranking if appropriate.

SEA 360, SECTION 5; IC 13-11-2-70

Effective July 1, 1997

- A qualified property transfer under the Responsible Property Transfer Law need not disclose any contamination that was addressed under the Voluntary Remediation Program where a certificate of completion was received for a voluntary remediation work plan.

### **Environmental Legal Actions**

SEA 360, SECTION 23; IC 13-30-9

Effective February 28, 1998

- A person may bring an environmental legal action against a person who caused or contributed to the release of a hazardous substance or petroleum into the surface or subsurface soil or groundwater that poses a risk to human health and the environment to recover reasonable costs of a removal or remedial action involving the hazardous substances or petroleum. This action does not apply to the state if the site is on the National Priorities List, scores at least 25 on the Indiana Scoring Model, or is an imminent threat to human health or the environment.
- The allocation of cost of removal or remedial action will be based on legal and equitable factors that are causation and fault based. There will not be joint strict and several liability for these cost recovery actions. This does not impact IDEM's unilateral authority to jointly, strictly and severally order anyone to conduct a response.
- If a contract allocates responsibility amongst the parties the contract shall control. The voluntary remediation program covenant not to sue provides protection against this suit. If the plaintiff's suit is for costs arising from a release at an underground storage tank they must either proceed under that statute or this but not both.
- If IDEM is not able to recover the total costs of a removal or remedial action from the responsible parties, the unrecovered costs may be paid from the Hazardous Substances Response Trust Fund.

## **UNDERGROUND STORAGE TANKS**

### **Voluntary Certification Program**

SEA 359, SECTION 1; IC 13-19-3-7.2

Effective May 13, 1997

- The Solid Waste Management Board (SWMB) is given the authority to adopt rules to develop a voluntary certification program for persons that remediate sites where releases of hazardous substances or petroleum have occurred. The rules must establish, at a minimum, the following: eligibility criteria for certification, criteria and procedures for suspension or revocation of certification, and a certification application fee.
- IDEM is given the authority to audit remediations performed by certified persons.

### **Underground Storage Tank Release Detection, Prevention, and Correction Program**

SEA 359, SECTION 2; IC 13-23-1-1

Effective May 13, 1997

- IDEM, rather than IDEM and the state fire marshal jointly, is required to establish and operate an underground storage tank release detection, prevention, and correction program according to rules adopted solely by the SWMB. IDEM may contract with another state agency to jointly operate the program under a memorandum of agreement.

## **Underground Petroleum Storage Tank Excess Liability Trust Fund**

*SEA 359, SECTION 3; IC 13-23-8-4*

*Effective May 13, 1997*

- An owner or operator may receive money from the Underground Petroleum Storage Tank Excess Liability Trust Fund only if the owner or operator is in substantial compliance with the following requirements:
  - 1) IC 13-23, IC 13-7-20 (before its repeal), and rules adopted under IC 13-23 and IC 13-7-20 (before its repeal); 42 U.S.C. 6991 through 6991i, and regulations adopted under 42 U.S.C. 6991 through 6991i. A release from an underground petroleum storage tank may not prevent an owner or operator from establishing compliance to receive money from the fund.
  - 2) The owner or operator has paid all registration fees.
  - 3) The owner or operator has provided the commissioner with evidence of payment of the amount of liability the owner or operator is required to pay.
  - 4) The owner or operator has not defaulted on a guaranteed loan.
  - 5) A corrective action plan is approved by the commissioner or deemed approved. The corrective action plan for sites with a release from an underground petroleum storage tank that impacts soil or groundwater, or both, is automatically deemed approved only as long as:
    - A) The owner or operator, or an agent of the owner or operator, conforms with IDEM's initial site investigation report guidelines, including an investigation that completely defines the horizontal and vertical extent of any soil and groundwater contamination; and IDEM's cleanup guidelines set forth in the Underground Storage Tank Branch Guidance Manual, including IDEM's risk-based corrective action plan standards when the standards become effective; and
    - B) The soil and groundwater contamination is confined to the owner's or operator's property. If the corrective action plan fails to satisfy any of the requirements above, the plan is automatically deemed disapproved. If a plan is disapproved, an owner or operator may supplement the corrective action plan. The corrective action plan is automatically deemed approved when the cause for the disapproval is corrected. In the event of a conflict between compliance with an owner's or operator's corrective action plan and IDEM's cleanup guidelines or standards in "A)" above, IDEM's cleanup guidelines or standards control. IDEM may audit any corrective action plan. If the commissioner denies the plan, a detailed explanation of all the deficiencies of the plan must be provided with the denial.
- An owner or operator is eligible to receive money from the fund before the owner or operator has a corrective action plan approved or deemed approved if:
  - 1) The work for which payment is sought was an immediate removal in response to a petroleum release that created the need for emergency action to abate an immediate threat of harm to human health, property, or the environment;
  - 2) The work is for a site characterization completed in accordance with the Underground Storage Tank Branch Guidance Manual; or
  - 3) IDEM has not acted upon a corrective action plan within 90 days after the date IDEM receives the plan or application to the fund, whichever is later.
- The amount of money an owner or operator is eligible to receive from the fund must be calculated in accordance with 328 IAC 1-3.

SEA 359, SECTION 9; Non-code

Effective May 13, 1997

Expires June 1, 2002

- The requirements to receive money from the Underground Petroleum Storage Tank Excess Liability Trust Fund under IC 13-23-8-4(b)(3) does not apply to a corrective action plan submitted to IDEM before June 1, 1997.

### **Underground Storage Tank Financial Assurance Board**

SEA 359, SECTION 4; IC 13-23-11-2

Effective May 13, 1997

- The Underground Storage Tank Financial Assurance Board (USTFAB) has increased from 12 to 16 members.

SEA 359, SECTION 5; IC 13-23-11-6

Effective May 13, 1997

- The USTFAB must now have nine members to constitute a quorum to transact business.

SEA 359, SECTION 6; IC 13-23-11-7

Effective May 13, 1997

- The USTFAB is now required to take testimony and receive a written report at every meeting regarding the financial condition and operation of the excess liability trust fund.
- The USTFAB is no longer required to advise IDEM and the Indiana employment finance authority on the administration of the excess liability trust fund. Instead, the USTFAB is required to consult with IDEM on administration of the underground petroleum storage tank excess liability trust fund in developing uniform policies and procedures for revenue collection and claims administration of the fund. Also, IDEM is required to consult with the USTFAB on administration of the underground petroleum storage tank excess liability trust fund. This must include evaluation of alternative means of administering the fund in a cost effective and efficient manner.
- The USTFAB no longer reviews appeals on denials.

SEA 359, SECTION 8; Non-code

Effective May 13, 1997

- P.L.67-1996, SECTION 10, regarding eligibility of reimbursement from the Underground Petroleum Storage Tank Excess Liability Fund, is repealed since rules were adopted at 328 IAC 1-3-3.

### **Heating Oil Tanks**

SEA 359, SECTION 7; IC 22-12-9

Effective May 13, 1997

- Procedures for closing heating oil tanks are established.

### **Compliance Requirements**

SEA 359, SECTION 10; Non-code

Effective May 13, 1997

Expires December 23, 1998

- Before December 22, 1998, the SWMB may not substantially increase or alter compliance requirements on underground storage tank owners that exceed compliance requirements imposed by the USEPA.

## **RESPONSIBLE PROPERTY TRANSFER LAW**

*HEA 1730, SECTION 1; IC 13-11-2-174*

*Effective April 23, 1997*

- For purposes of the Responsible Property Transfer Law, the definition of “property” no longer includes “any improvements”.

## **LOCAL EMERGENCY PLANNING COMMITTEES**

*HEA 1811, SECTION 1; IC 6-6-10-7*

*Effective July 1, 1997*

- The State Emergency Management Agency, rather than IDEM, will administer the money allocated to the Emergency Response Commission from the Local Emergency Planning and Right to Know Fund.

*HEA 1811, SECTION 3; Non-code*

*Effective July 1, 1997*

*Expires July 2, 1997*

- On July 1, 1997, the State Budget Agency shall transfer all money remaining in the account administered by IDEM that contains funds allocated to the Emergency Response Commission before July 1, 1997 to a non-reverting account administered by the State Emergency Management Agency for receiving allocations to the Emergency Response Commission after June 30, 1997.

## **FEE FOR INSPECTION OF GASOLINE AND KEROSENE**

*HEA 1784, SECTION 29; IC 16-44-2-18*

*Effective July 1, 1997*

- The fee for the inspection of gasoline and kerosene has been increased from \$0.04 to \$0.40 per barrel. The money collected for these inspections is deposited into the Underground Petroleum Storage Tank Excess Liability Trust Fund.

# **RULEMAKING:**

## **3RD PUBLIC COMMENT PERIOD FOR RULEMAKING**

*SEA 297, SECTION 3; IC 13-14-9-4.5*

*Effective July 1, 1997*

- The Air Pollution Control Board, the Water Pollution Control Board, and the Solid Waste Management Board may not adopt a rule until a 3rd public comment period that is at least 21 days in length is conducted. This requirement does not apply to a rule that has been preliminarily adopted by the board in a form that is identical to or not substantively different from the proposed rule published at 2nd notice, or for which the commissioner has made a determination and prepared written findings.
- IDEM must publish the 3rd notice and request the submission of comments that concern only the portion of the preliminarily adopted rule that is substantively different from the language contained in the proposed rule published at 2nd notice.

*SEA 297, SECTION 6; Non-code*

*Effective July 1, 1997*

*Expires July 1, 1999*

- The requirement for a 3rd public comment period only applies to rules for which a notice of a 2nd public comment period is published after June 30, 1997.

## **1ST PUBLIC COMMENT PERIOD NOTICE REQUIREMENTS**

*SEA 297, SECTION 2; IC 13-14-9-3*

*Effective July 1, 1997*

- IDEM must include a detailed statement of the issue to be addressed by adoption of the proposed rule, in addition to other requirements, when providing notice of a 1st public comment period for rulemaking.



# **ADMINISTRATIVE ORDERS AND PROCEDURES:**

## **ADMINISTRATIVE ORDERS**

*HEA 1992, SECTION 1; IC 4-21.5-3-27*

*Effective July 1, 1997*

- An order issued by an ultimate authority under IC 13, IC 14, or IC 25 must include separately stated findings of fact and, if a final order, conclusions of law for all aspects of the order, including the remedy prescribed and, if applicable, the action taken on a petition for stay of effectiveness. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Conclusions of law must consider prior final orders (other than negotiated orders) of the ultimate authority under the same or similar circumstances if those prior final orders are raised on the record in writing by a party and must state the reasons for deviations from those prior orders. The order must also include a statement of the available procedures and time limit for seeking administrative review of the order (if administrative review is available).

## **ENVIRONMENTAL ADJUDICATION**

*HEA 1992, SECTION 4; IC 13-14-8-11*

*HEA 1992, SECTION 5; IC 13-15-6-1*

*HEA 1992, SECTION 6; IC 13-15-6-3*

*HEA 1992, SECTION 7; IC 13-15-7-3*

*HEA 1992, SECTION 14; IC 13-19-3-1*

*HEA 1992, SECTION 15; IC 13-23-9-4*

*HEA 1992, SECTION 16; IC 13-23-11-7*

*HEA 1992, SECTION 18; IC 13-23-11-8*

*HEA 1992, SECTION 17; IC 13-24-1-4*

*Effective May 13, 1997*

- Appeals concerning permit applications and certain other orders and determinations made by the commissioner of IDEM are made to the Office of Environmental Adjudication, instead of the Air, Water, Solid Waste, or Financial Assurance Boards. An Environmental Law Judge holds adjudicatory hearings, rather than one of the boards.

## **TIME LIMIT FOR APPEALS**

*SEA 7, SECTION 11; IC 4-21.5-3-7*

*Effective April 28, 1997*

- IC 4-21.5-3-7 was amended so that **all kinds** of agency orders have a time limit of 15 days for appeal. This corrects a technical error that was made by a 1995 amendment that limited the types of orders that the appeal time limit applied to, and all other types of orders would have otherwise had no time limit for appeal.

## **GENERAL:**

### **ANNUAL OPERATION FEE PAYMENTS IN INSTALLMENTS (RELOCATION OF LANGUAGE)**

*SEA 7, SECTION 40; IC 13-16-2*

*SEA 7, SECTION 89; Non-code*

*Effective April 28, 1997*

- The language on paying an annual operation fee in installments is relocated. It was repealed from IC 13-22 Hazardous Waste Management and placed into IC 13-16 Fees Generally. This correction was made since the language applies to the Water and Solid Waste programs as well as Hazardous Waste program.

### **STATE GRANTS**

*HEA 1542, SECTION 25; IC 36-1-8-12*

*Effective July 1, 1997*

- If a political subdivision receives state grant money requiring local matching money, the political subdivision shall create a special fund and deposit the grant money and matching money into the special fund.
- If a political subdivision completes the project for which the state grant money was provided and money remains in the fund, then the political subdivision shall transfer the state's share of the remain money to the treasurer of state for deposit in the fund from which the grant was made. The political subdivision's pro rata share of the remaining money reverts to the political subdivision's general fund.

### **LAKE CO. ANNEXATION OF TERRITORY**

*SEA 5(ss), SECTION 31; IC 36-4-3-4.1*

*Effective July 1, 1997*

*(Note: this language was added by SEA 140, SECTION 1 and then amended by SEA 5 (ss), SECTION 31)*

- A municipality in Lake County, is allowed to annex territory that: 1) is contiguous to the municipality; 2) has its entire area within the township in which the municipality is primarily located; and 3) is owned by a property owner who consents to the annexation. The requirement that territory to be annexed has its entire area within the township in which the municipality is primarily located does not apply to Lowell and Cedar Lake.

### **BIENNIAL BUDGET**

*SEA 6(ss), SECTION 5; Non-code*

*Effective July 1, 1997*

- Appropriations from the state general fund and other specifically designated funds for state fiscal years 1997-98 and 1998-99 (July 1, 1997 through June 30, 1999) are specified for each IDEM program.

### **LAND SURVEYORS**

*SEA 182; IC 25-21.5*

*Effective July 1, 1997*

- Various amendments are made to the provisions regarding the registration of land surveyors.

## **INDIANA ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS**

*SEA 163, SECTION 1; IC 4-23-24.2-7*

*Effective July 1, 1997*

- IDEM's representation on the Indiana Advisory Commission on Intergovernmental Relations is removed.

## **ENHANCED ACCESS TO PUBLIC RECORDS**

*HEA 1945, SECTION 2; IC 5-14-3-3.5*

*Effective July 1, 1997*

- A state agency may provide enhanced access to public records as an additional means of inspecting and copying public records. A state agency must provide enhanced access to public records only through the computer gateway administered by the Intelnet Commission.

## **DIGITAL SIGNATURES**

*SEA 5(ss), SECTION 40; IC 5-24*

*(Note: HEA 1945, SECTION 7; IC 5-22 was repealed by SEA 5(ss), SECTION 39; Effective July 1, 1997)*

*Effective July 1, 1997*

- A digital signature on a document filed with the state is effective if it meets certain criteria.

*SEA 5(ss), SECTION 42; Non-code*

*(Note: HEA 1945, SECTION 8; was repealed by SEA 5(ss), SECTION 41; Effective June 5, 1997)*

*Effective June 5, 1997*

- IDEM is one of the entities that the State Board of Accounts will seek advice from on establishing rules to implement a method of conducting electronic transactions using digital signatures.

## Brief Summary of 1997 Legislation that Affects IDEM

ss = special session

| Enrolled Act No. | Subject(s)                                                                              | Synopsis                                                                                                                                                                                                                                                                        |
|------------------|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SEA 5 (ss)       | Technical Corrections                                                                   | Numerous technical corrections are made to the IN Code.                                                                                                                                                                                                                         |
|                  | Water Resources Study Committee                                                         | The Water Resources Study Committee is established to make recommendations concerning all matters relating to the surface and ground water resources of IN.                                                                                                                     |
|                  | Digital Signatures                                                                      | A digital signature on a document filed with the state is effective if it meets certain criteria.                                                                                                                                                                               |
| SEA 6 (ss)       | Biennial Budget                                                                         | The state budget for state fiscal years 1997-98 and 1998-99 are outlined.                                                                                                                                                                                                       |
|                  | Motor Vehicle Emission Inspection Stations in Lake and Porter Cos.                      | An appropriation of \$1.7 million is made for two additional motor vehicle emission inspection stations in Lake and Porter Cos.                                                                                                                                                 |
| SEA 7            | Technical Corrections                                                                   | Numerous technical corrections are made to the IN Code.                                                                                                                                                                                                                         |
| SEA 31           | Water Supply for Contaminated Wells                                                     | A municipal council may require a public utility to extend its water mains and connect areas with private water wells that are contaminated.                                                                                                                                    |
| SEA 75           | Work Group on Lake Problems                                                             | A work group is established to develop solutions for the problems affecting public freshwater lakes of Indiana.                                                                                                                                                                 |
| SEA 140          | Lake Co. Annexation of Territory                                                        | Authority is given for a municipality in Lake Co. to annex territory.                                                                                                                                                                                                           |
| SEA 163          | IN Advisory Commission on Intergovernmental Relations                                   | IDEM's representation on the IN Advisory Commission on Intergovernmental Relations is removed.                                                                                                                                                                                  |
| SEA 169          | Waste Tire Disposal at a Land Excavation Associated with a Mineral Extraction Operation | A person may dispose of a whole waste tire at a mine site if the person owns the site, the tire meets certain size specifications, the tire was used on an off-road construction or mining vehicle or equipment, and the tire is buried at least 25 feet under compacted cover. |
| SEA 182          | Land Surveyors                                                                          | The registration requirements for land surveyors are amended.                                                                                                                                                                                                                   |

|         |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SEA 206 | Air Permit Exemptions                         | The expiration of the law that exempts certain modifications to existing air pollution sources from construction or operating permits and registrations is extended from July 1, 1997 to the earlier of the effective date of the rules regarding this matter or December 1, 1998.                                                                                                                                                                                                                                                                                                            |
| SEA 238 | Regional Transportation Authorities           | The authority to establish or expand a regional transportation authority is extended from counties only, to municipalities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| SEA 297 | 3rd Public Comment Period for Rulemaking      | An environmental board must hold a 3rd public comment period if a preliminarily adopted rule is substantially different from the proposed rule published at 2nd notice after June 30, 1997.                                                                                                                                                                                                                                                                                                                                                                                                   |
|         | 1st Public Comment Period Notice Requirements | IDEM must include a detailed statement of the issue to be addressed by adoption of the proposed rule, in addition to other requirements, when providing notice of a 1st public comment period for rulemaking.                                                                                                                                                                                                                                                                                                                                                                                 |
| SEA 319 | Clean Manufacturing and Pollution Prevention  | Many responsibilities regarding clean manufacturing are transferred from IDEM to the renamed Clean Manufacturing Technology Board and the Clean Manufacturing Technology and Safe Materials Institute.                                                                                                                                                                                                                                                                                                                                                                                        |
| SEA 340 | Drinking Water Revolving Loan Program         | The Drinking Water Revolving Loan Program and Fund are established to provide loans to political subdivisions for the planning, designing, construction, renovation, improvement, or expansion of drinking water systems that will facilitate compliance with national primary drinking water regulations.                                                                                                                                                                                                                                                                                    |
|         | Wastewater Revolving Loan Program             | Only the Budget Agency, rather than IDEM and the Budget Agency jointly, may enter into a financial assistance agreement with a political subdivision. Only the Budget Agency, rather than IDEM and the Budget Agency jointly, may provide financial assistance under the supplemental wastewater assistance program to political subdivisions.                                                                                                                                                                                                                                                |
| SEA 359 | Underground Storage Tanks                     | The Solid Waste Management Board is given the authority to adopt rules to develop a voluntary certification program for persons who remediate sites on which a release of a hazardous substance or petroleum has occurred. Some requirements to receive payment from the Underground Petroleum Storage Tank Excess Liability Fund have been changed. The Underground Storage Tank Financial Assurance Board and IDEM are required to consult with each other on administering the fund.                                                                                                       |
| SEA 360 | Environmental Remediation / Brownfields       | The law concerning the remediation of brownfields and other contaminated properties is amended. The Environmental Remediation Revolving Loan Program and Fund is established to provide loans to political subdivisions to remediate brownfield sites. In resolving certain environmental legal actions after February 28, 1998, a court must allocate the costs of removal or remedial action in proportion to the acts or omissions of each part, without regard to any theory of joint and several liability, using legal and equitable factors that the court determines are appropriate. |

|          |                                                                                       |                                                                                                                                                                                                                                                                                                               |
|----------|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SEA 478  | Secondary Material Reuse Exemption                                                    | A secondary material that meets the criteria for listing as a hazardous waste but is capable of being legitimately utilized in an industrial or manufacturing process with no additional threat to health or the environment may be exempted from hazardous waste regulation by IDEM.                         |
|          | Delisting of Hazardous Waste                                                          | No later than January 1, 1998, IDEM is required to apply to USEPA for authority to delist hazardous waste. The Solid Waste Management Board is required to adopt rules that provide procedures and criteria for delisting hazardous waste before January 1, 1999.                                             |
|          | Transfer of Infectious Waste                                                          | A facility is not required to be permitted as a transfer station for the transfer of solid waste if infectious waste is transferred directly between two vehicles, the infectious waste is packaged according to state laws, and the packages of infectious waste are not opened during the transfer.         |
| SCR 30   | Urge EPA to Evaluate Proposed Revisions to the National Ambient Air Quality Standards | The IN legislature is urging the President of the U.S. and USEPA to evaluate both the potential and incremental health effects and economic consequences of the proposed revisions to the National Ambient Air Quality Standards.                                                                             |
| SCR 35   | Natural, Scenic, and Recreational River System                                        | The IN legislature is urging the Natural Resources Study Committee to address the protection of the natural, scenic, and recreational qualities of those river segments designated as part of the Natural, Scenic, and Recreational River System.                                                             |
| HEA 1041 | Kankakee River Basin Commission                                                       | Various amendments are made to the provisions regarding the Kankakee River Basin Commission.                                                                                                                                                                                                                  |
| HEA 1102 | Gasoline and Gasohol Vapor Pressure                                                   | The methods and specifications for testing the vapor pressure of gasoline and gasohol are modified.                                                                                                                                                                                                           |
| HEA 1171 | Soil and Water Conservation Districts                                                 | The laws on the organization and the dissolution of Soil and Water Conservation Districts are repealed. Numerous amendments to other provisions on Soil and Water Conservation Districts are made.                                                                                                            |
| HEA 1181 | Lead-Based Paint Activities Licenses                                                  | The Lead-Based Paint (LBP) Activities Program is established. A person who engages in LBP activities in target housing and child-occupied facilities is required to obtain a license from IDEM. LBP activities training courses must be approved by IDEM.                                                     |
| HEA 1301 | Open Burning                                                                          | The months that local units of government in Lake, Porter, Clark, and Floyd Counties can allow open burning of leaves at residences in unincorporated areas where yard waste pick-up is not available have been changed from Oct. 1 through Dec. 31, to Oct. 1 through Nov. 30, and April 1 through April 30. |
| HEA 1339 | Solid Waste Management District (SWMD) Claim Forms                                    | SWMDs are added to the list of entities that are exempt from certain procedures for paying claims.                                                                                                                                                                                                            |
|          | Solid Waste Planning Advisory Council Dissolution                                     | The Solid Waste Planning Advisory Council expires June 30, 1999.                                                                                                                                                                                                                                              |

|                         |                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| HEA 1339<br>(continued) | State Solid Waste Management Fund                                                             | The use of funds from the State Solid Waste Management Fund is modified to provide money for programs that provide grants and loans for education and that promote recycling and the reuse of recycled materials, waste reduction, and management of yard waste. The \$.50/ton final disposal fee imposed on solid waste generated in IN and disposed of at a final disposal facility in IN is to be deposited so that not less than 50% is deposited in the IN Recycling Promotion Assistance Fund and not more than 50% is deposited in the State Solid Waste Management Fund. IDEM must develop a policy concerning the awarding of grants from the State Solid Waste Management Fund. |
|                         | State Solid Waste Management Fund Grants                                                      | IDEM must develop a policy concerning the awarding of grants from the State Solid Waste Management Fund.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                         | Solid Waste Management District Powers                                                        | Three of the SWMD powers are modified so that they are under the condition that the primary purpose of undertaking those activities is to carry out the provisions of IC 13-21.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                         | Solid Waste Management District Fiscal Report                                                 | At the end of each year, each SWMD shall prepare a fiscal report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                         | SWMD Disposal Fee for La Porte Co.                                                            | The law regarding the amount of fees a SWMD can impose on a final disposal facility located within a district is amended so that the fee in La Porte County is limited to \$2.50 per ton. All other counties may still impose a fee of \$2.50 per ton or the amount of the fee in effect on January 1, 1993, whichever is greater.                                                                                                                                                                                                                                                                                                                                                        |
|                         | Solid Waste Landfill Groundwater Corrective Action Contingency Fund                           | The Solid Waste Management Board's rule regarding the solid waste landfill ground water corrective action contingency fund is void. The Solid Waste Management Board is required to adopt rules concerning financial assurance for corrective action.                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                         | Alternative Daily Cover at Solid Waste Municipal Landfills                                    | IDEM, the environmental boards, and SWMDs are prohibited from charging a fee for using an alternative daily cover on a municipal solid waste landfill.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                         | Secondary Material Reuse Exemption                                                            | A secondary material that meets the criteria for listing as a hazardous waste but is capable of being legitimately utilized in an industrial or manufacturing process with no additional significant threat to health or the environment may be exempted from hazardous waste regulation by IDEM.                                                                                                                                                                                                                                                                                                                                                                                         |
|                         | Delisting of Hazardous Waste                                                                  | No later than January 1, 1998, IDEM is required to apply to USEPA for authority to delist hazardous waste. The Solid Waste Management Board is required to adopt rules that provide procedures and criteria for delisting hazardous waste before January 1, 1999.                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                         | Site Approval Authority for Hazardous Waste and Low-Level Radioactive Waste (LLRW) Facilities | Prior to construction of a hazardous waste or LLRW facility, a person must obtain all approvals as required under applicable zoning ordinances or laws, rather than the local plan commission and county executive. If the proposed facility is located in an area that is not subject to a zoning ordinance or law, the person must obtain approval to construct from the county executive of the county in which the facility would be located.                                                                                                                                                                                                                                         |

|          |                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| HEA 1541 | Foundry Sand and Special Waste                                                                                                            | Refractory brick, fire clay refractory earth, fire brick, and ceramic block that meet Type III criteria, and slag from steel and iron producing industries are deleted from the list of “generic special waste”. Specified uses of foundry sand that meets Type III criteria are allowed without a permit.                                                                                                                                                                                                                                                                                                                |
| HEA 1542 | State Grants                                                                                                                              | If a political subdivision receives state grant money that requires matching money, then the money must be deposited in a special fund. After a state grant project is completed, any money remaining in the special fund is to be distributed to the state and political subdivision.                                                                                                                                                                                                                                                                                                                                    |
|          | Certification of Coal Conversion Systems, Hydroelectric Power Devices, and Geothermal Energy Heating or Cooling Devices for Tax Deduction | If IDEM fails to determine whether a coal conversion system, hydroelectric power device, or geothermal energy heating or cooling device qualifies for an assessed value deduction before May 10 of an assessment year, the system or device is considered certified.                                                                                                                                                                                                                                                                                                                                                      |
| HEA 1728 | Recovery of Attorney’s Fees for Successful Solid Waste Dumping Nuisance Actions                                                           | A county, city, or town is entitled to recover reasonable attorney’s fee incurred in bringing a successful action to abate or enjoin a nuisance caused by unlawful dumping of solid waste.                                                                                                                                                                                                                                                                                                                                                                                                                                |
| HEA 1730 | Responsible Property Transfer Law                                                                                                         | For purposes of the Responsible Property Transfer Law, the definition of “property” no longer includes “any improvements”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|          | Spill Reporting Requirements Rule (Water Program)                                                                                         | The provisions on spill reporting requirements are repealed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| HEA 1784 | Fee for Inspection of Gasoline and Kerosene                                                                                               | The fee for the inspection of gasoline and kerosene has been increased from \$0.04 to \$0.40 per barrel. The money collected for these inspections is deposited into the Underground Petroleum Storage Tank Excess Liability Trust Fund.                                                                                                                                                                                                                                                                                                                                                                                  |
| HEA 1811 | Local Emergency Planning Committees                                                                                                       | The State Emergency Management Agency will administer the money allocated to the Emergency Response Commission, rather than IDEM.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| HEA 1915 | Confined Feeding Operations                                                                                                               | An applicant for a permit to start constructing a confined feeding operation must submit an application to IDEM for approval, including a manure management plan. IDEM’s enforcement authority to control these operations is clarified.                                                                                                                                                                                                                                                                                                                                                                                  |
| HEA 1917 | Regional Water, Sewage, and Solid Waste Districts                                                                                         | A petition to establish a regional water, sewage, or solid waste district may be filed by any representative of one or more eligible entities involved after being authorized by the fiscal body of the <u>petitioning</u> eligible entity or entities, rather than by the fiscal body of <u>each</u> eligible entity or entities included in the plan. A petitioner proposing to form a regional water, sewer, or solid waste district must give notice to the executive of the governmental entities (rather than just the counties) that have territory within the proposed district within 10 after filing with IDEM. |
| HEA 1934 | Maumee River Basin Commission                                                                                                             | The county surveyor of each participating county is a voting member, rather than a nonvoting member, of the Maumee River Basin Commission.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| HEA 1945 | Enhanced Access to Public Records                                                                                                         | A state agency must provide enhanced access to public records only through the computer gateway administered by the internet commission.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



|          |                                                                        |                                                                                                                                                                                                                                                                                                                                                                                |
|----------|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| HEA 1992 | Administrative Orders                                                  | Separate procedures are established for an order issued by an ultimate authority under IC 13, 14, or 25.                                                                                                                                                                                                                                                                       |
|          | Environmental Adjudication                                             | Numerous corrections are made concerning that appeals are to be made to the Office of Environmental Adjudication rather than the environmental boards.                                                                                                                                                                                                                         |
|          | Wellhead Protection Zones                                              | The Water Pollution Control Board is prohibited from adopting rules concerning wellhead protection zones that restrict any activity by a land or mineral owner or a mineral leaseholder unless the land or mineral owner or a mineral leaseholder is sent written notice of the establishment of the zone. The applicant is responsible for providing any notice requirements. |
|          | Storm Water Run-Off Associated with Construction Activity              | Before July 1, 1997, IDEM must publish notice of the Water Pollution Control Board's intent to adopt rules concerning responsibility for sediment from storm water runoff associated with construction activity.                                                                                                                                                               |
|          | Public Water Supply Permits / Permit by Rule for Water Main Extensions | A permit by rule is allowed for the construction, installation, or modification of sources, facilities, equipment, or devices of a public water supply. The Water Pollution Control Board must adopt a permit by rule for water main extensions.                                                                                                                               |

6/16/97

# How To Properly Reference State Legislation

Most of the time, you will probably reference just the Indiana Code (IC) citation, for example *IC 13-14-9-4.5*, but sometimes you may want to indicate which enrolled act the provision came from and what year it was passed, especially for non-code provisions.

There are various ways you can properly reference an enrolled act:

- 1) You can use the SEA number or HEA number as long as you include the year it passed, for example *SEA 478, passed in 1997*. You must include the year it passed because the enrolled act numbers are reused every year for different pieces of legislation.
- 2) You can just use the public law (P.L.) number that corresponds with the enrolled act number, for example *P.L.128-1997*. The public law number already indicates the year the legislation passed so you do not need to repeat it.
- 3) You can use a combination of the enrolled act number and the public law number, for example *SEA 478 (P.L.128-1997)*.

*\* Remember: Once legislation becomes a law, it is **no longer referred to as a “bill”**. It becomes an HEA or SEA.*

**Acronyms:**     SEA     Senate Enrolled Act  
                      HEA     House Enrolled Act

| 1997             |                  |  |                  |                |
|------------------|------------------|--|------------------|----------------|
| Enrolled Act No. | Public Law No.   |  | Enrolled Act No. | Public Law No. |
| SEA 5(ss)        | P.L.253-1997(ss) |  | HEA 1041         | P.L.141-1997   |
| SEA 6(ss)        | P.L.260-1997(ss) |  | HEA 1102         | P.L.151-1997   |
| SEA 7            | P.L.2-1997       |  | HEA 1171         | P.L.136-1997   |
| SEA 31           | P.L.221-1997     |  | HEA 1181         | P.L.123-1997   |
| SEA 75           | P.L.239-1997     |  | HEA 1301         | P.L.248-1997   |
| SEA 140          | P.L.224-1997     |  | HEA 1339         | P.L.45-1997    |
| SEA 163          | P.L.32-1997      |  | HEA 1541         | P.L.129-1997   |
| SEA 169          | P.L.132-1997     |  | HEA 1542         | P.L.10-1997    |
| SEA 182          | P.L.178-1997     |  | HEA 1728         | P.L.206-1997   |
| SEA 206          | P.L.244-1997     |  | HEA 1730         | P.L.127-1997   |
| SEA 238          | P.L.235-1997     |  | HEA 1784         | P.L.28-1997    |
| SEA 297          | P.L.130-1997     |  | HEA 1811         | P.L.66-1997    |
| SEA 319          | P.L.124-1997     |  | HEA 1915         | P.L.125-1997   |
| SEA 340          | P.L.126-1997     |  | HEA 1917         | P.L.133-1997   |
| SEA 359          | P.L.131-1997     |  | HEA 1934         | P.L.142-1997   |
| SEA 360          | P.L.59-1997      |  | HEA 1945         | P.L.19-1997    |
| SEA 478          | P.L.128-1997     |  | HEA 1992         | P.L.25-1997    |

# How to Find The Most Current Version Of A Law In The Indiana Code After the 1997 Legislative Session

---

Now that the 1997 legislative session is over and new legislation has passed, we need to make sure we are using the most current version of a law.

## **When Using the “Indiana Code” (IC) Books:**

The IC books are the red hard-covered books.

### **Version #1 (to be used until the 1997 supplement to the IC is published):**

You will need to look in TWO places: the 1996 supplement to the IC plus the 1997 enrolled acts.

1st Look up the citation of the law in the 1996 supplement of the IC, for example *IC 13-19-4*.

2nd Look at the “1997 Legislative Summary for IDEM” and to see if any enrolled acts were passed in the 1997 session that are related to the IC citation you are looking up. The versions in the 1997 enrolled acts supersede the 1996 supplement.

### **Version #2 (to be used after the 1997 supplement to the IC is published):**

You will only need to look in ONE place-- the 1997 supplement. You will no longer need to look at the 1996 supplement or the enrolled acts, except for non-code provisions.

**Note:** Since the environmental laws were recodified in 1996 and the entire IC 13 was reprinted in the 1996 supplement, we do not need to refer to the 1993 edition as we would have normally. The 1997 supplement to the Indiana Code is a cumulative collection of new laws and amendments to existing laws from bills that were passed in the 1994, 1995, 1996 and 1997 legislative sessions. The 1993 edition of the Indiana Code is a comprehensive collection of all laws from the 1993 legislative session and earlier.

~~~~~

When Using the “Indiana Environmental Statutes” Books:

The “Indiana Environmental Statutes” Books are the brown and green soft-covered books published by IDEM.

Version #1 (to be used until the 1997 edition of the “Indiana Environmental Statutes” book is published):

You will need to look in TWO places: the 1996 edition plus the 1997 enrolled acts.

1st Look up the citation of the law in the 1996 edition, for example *IC 13-19-4*.

2nd Look at the “1997 Legislative Summary for IDEM” and to see if any enrolled acts were passed in the 1997 session that are related to the IC citation you are looking up. The versions in the 1997 enrolled acts supersede the 1996 edition.

Version #2 (to be used after the 1997 edition is published):

You will only need to look in ONE place--the 1997 edition of the “Indiana Environmental Statutes”. You will no longer need to look at the 1996 edition or the enrolled acts.

Addendum to 1997 Legislative Summary for IDEM

AIR PROGRAM:

MOTOR VEHICLE EMISSION INSPECTION STATIONS IN CLARK AND FLOYD COs.

HEA 1714, SECTION 2; IC 13-17-5-5.4

Effective July 1, 1997

- After July 1, 1997, IDEM must maintain in Clark County and Floyd County an equal or greater number of inspection stations as were operating in the county on July 1, 1996. A temporary or portable inspection station counts as an inspection station.

SOLID WASTE PROGRAM:

SOLID WASTE MANAGEMENT DISTRICT PROPERTY TAX RATE

HEA 1783, SECTION 155; IC 13-21-3-12

Effective March 1, 2001

- The maximum property tax rate that a solid waste management district can impose to pay the costs of operation in connection with solid waste management is reduced from to \$0.25 to \$0.0833 on each \$100 of assessed valuation of property in the district.

HEA 1783, SECTION 156; IC 13-21-3-15

Effective March 1, 2001

- The maximum additional property tax levy is reduced from \$0.22 to \$0.0733 on each \$100 of assessed valuation of property in the district.

SOLID WASTE MANAGEMENT DISTRICT BONDS

HEA 1783, SECTION 157; IC 13-21-7-12

Effective March 1, 2001

- The limit on bonds that solid waste management districts is changed from not exceeding 6% of the net assessed valuation to not exceeding 6% of the adjusted value of taxable property in the district as determined under IC 36-1-15.